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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

05/26/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/841,440

Applicant(s)
Clark et al.

Examiner
Geoffrey L. Knable

Group Art Unit
1733



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) 1-16 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 17-20 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5-6

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-16, drawn to a cable, classified in class 174, subclass 33.

II. Claims 17-20, drawn to a method of producing a cable, classified in class 156, subclass 52.

2. The inventions are distinct, each from the other because of the following reasons:

3. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed could be made by another and materially different process such as a molding process (e.g. not using a preformed core) or one not using dies other than a bunching die.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. During a telephone conversation between examiner Chau Nguyen and Mr. Gary S. Engelson on April 9, 1998 a provisional election

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was made without traverse to prosecute the invention of group II, Claims 17-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-16 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of Claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the Claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various Claims was commonly owned at the time any inventions covered

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therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaeris et al. (US 5,789,711) or Beaver (US 1,700,606) or Davis (US 1,132,452) or Eilhardt et al. (US 3,603,715) taken in view of Bryan et al. (US 2,882,676), Staschewski (US 3,559,390) and Davis et al. (US 3,340,112).

Each of the primary references clearly shows a transmission cable including a shaped core with transmission elements aligned with the spaces of the core. These references however either do not define how this structure is to be made or only broadly define how it is made (e.g. note page 1, lines 102-106 of Beaver define that the core is applied at the same time the conductors are laid up).

It however is well known to form transmission cables using conventional cable stranding equipment. In light of Bryan et al., it is apparent that such equipment conventionally includes stationary apertured guide plates followed by forming dies (e.g.

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note col. 1, lines 18+). Staschewski (US 3,559,390) provides additional evidence of conventional processing to form cables - note again this reference uses various guides/dies followed by a bunching step or die. The reference further indicates that provision for a core element is also possible (col. 3). Davis et al. is also directed to forming transmission cables and again shows that guides leading to a bunching die represents conventional processing in forming transmission cables. It would have been prima facie obvious to form cables having a core and aligned conductors using guides or dies leading to a bunching die in light of these teachings that exemplify that these represent conventional cable forming techniques. That the guide should include a shaped orifice for the core which would prevent twisting of the core is considered to have been an obvious expedient as (1) a shaped orifice would present a more effective guiding for the core and (2) it is clearly known and desirable in general that the guides should be stationary - this is obviously to prevent the twist propagating back - thus a shaped guide for the core would help maintain this requirement for the core. To extrude an elongated plastic profile is extremely well known and would have been an obvious formation technique for the cores in the primary references. None but the expected results would have been achieved. The numbers of guides/dies used would have been


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readily selected by the artisan through routine optimization leading to none but the expected results.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sargent (US 1,977,209), Delon (US 1,995,201), Guillaume (US 483,285), Thelin (US 2,501,457), Carroll (US 4,778,246) and Hardie et al. (US 5,574,250) are other examples of cables with a shaped core but are no more relevant than the applied art.

10. Any inquiry concerning this communication should be directed to Geof Knable at telephone number (703) 308-2062. The fax phone numbers for Art Unit 1733 are (703) 305-3599 for Official After Final faxes and (703) 305-7718 for all other Official faxes.


GEOFFREY L. KNABLE
PRIMARY EXAMINER
GROUP 1700

G. Knable
September 19, 1998